REMARKS/ARGUMENTS

Claims 1 through 12 and 14 through 21 are presently pending. In an office action mailed May 20, 2004 (Paper No. 3), claims 1-12 and 14 through 21 were rejected under 35 U.S.C. 103(a) as being anticipated by US 6,483,600 (Shuster) in view of Intel White Paper – T38 and the Future of Fax (Intel). These rejections are respectfully traversed.

Rejections under 35 U.S.C. 103

Shuster in view of Intel fails to provide a basis for the rejection of claims 1 through 12 and 14 through 21 because it fails to disclose each element of the claimed invention. For example, claim 1 includes a "a client having a T38 protocol client driver that is operable to support a fax over Internet protocol session; a first Internet service provider, the client connects to the first Internet service provider." In contrast, Shuster discloses a facsimile device 20 that connects to a data network gateway 30 over a telephone connection 22. Data network gateway 30 includes a data network interface 46 that performs facsimile connection processing 154. Likewise, Intel discloses a gateway/router in figure 3 on page 4, a T38 gateway in figure 4 on page 5, and an IP telephony gateway in Figure 6 of page 6, each of which interface with standard devices. Clearly, the intent and objective of both Shuster and Intel is to allow standard devices to utilize the T.38 protocol through a gateway. However, there are numerous problems with this approach, one of which is that if a gateway is not T.38 enabled, then a user cannot send a fax over IP. In contrast, the invention of claim 1 allows a device that includes a T38 protocol client driver to send a fax over IP using an ordinary Internet services provider, in one exemplary embodiment. There is no teaching or suggestion in either Shuster or Intel to provide each client with a T38 protocol client driver, nor can they be modified to provide that functionality as a T38 gateway is required by each exemplary embodiment of Shuster and Intel (see, e.g., page 4, second sentence, a "traditional group 3 facsimile terminal is connected to a gateway"). Although Intel does refer to "a fax-enabled device like PC, which is directly connected to an IP network," it is clear that this is the configuration proposed in the T.38 recommendation, which provides for "a connection to a facsimile-enabled device (for example, a PC) which is directly connected to an IP network." However, such direct connection to an IP network is not through the public switched telephone network to an Internet services provider (ISP), as shown in Figure 1 of the

pending application and as described in the background of the invention, as such an ISP connection requires the user to disconnect from the Internet in order to send a fax, as described in the background of the invention. Both Shuster and Intel entirely fail to mention ISPs other than ISPs that operate T38 gateways, as further described in the background of the invention. As such, Shuster and Intel fail to disclose "a client having a T38 protocol client driver that is operable to support a fax over Internet protocol session; a first Internet service provider, the client connects to the first Internet service provider," among other things.

Likewise, claim 6 depends from claim 1 and includes the "T38 client driver system of claim 1, wherein the client is operable to maintain at least one additional Internet protocol session." The Examiner asserts that Intel discloses that the DSP chips on the IP link board have the ability to handle multiple coders at the same time, but that does not provide the element of claim 6, as it is the client, and not the gateway, that is maintaining at least one additional Internet protocol session while it maintains the fax over Internet protocol session with the fax machine. Intel discloses that the Intel product "can include densities from 4 to 60 ports." However, it is well known in the art that each port is assigned to a unique IP address that is associated with a user or network gateway (such as where the network gateway provides network port address translation), and can support multiple Internet protocol sessions. As such, the Intel product would not be used on a client, but rather on a server that is providing gateway services for four or more users or network gateways, each associated with a unique IP address. In one exemplary embodiment, claim 6 distinguishes over the prior art in that it allows a client to simultaneously transmit a fax and maintain at least one additional Internet protocol session.

Claim 9 has been amended to cover embodiments of the invention of commercial interest, and likewise includes elements not found in Shuster and Intel. For example, claim 9 includes "a personal computer client having a modem that is compatible with a fax over Internet protocol client driver supporting a fax over Internet protocol session; a first Internet service provider that is not a fax gateway, the personal computer client connects to the first Internet service provider using the modem and the fax over Internet protocol client driver . . . the personal computer client maintains a fax over Internet protocol session with the fax machine using the fax over Internet protocol client driver, and the personal computer client is not the first Internet service provider." As previously described, both Shuster and Intel require the use of a T38 gateway in order to provide that functionality, or direct connection from the T38 device to the Internet. Likewise,

claim 10 includes " the system of claim 9, wherein the personal computer client maintains at least one additional Internet protocol session over the connection with the first Internet service provider without switching between modes." Neither Shuster nor Intel envisioned that it would be desirable to enable computers that use a modem to connect to an ISP to both send a fax and maintain a separate IP session. In fact, Intel discloses the same prior art disclosed in the background of the invention at page 6, paragraph 5: "if a fax transmission comes in during a voice call, the system automatically switches to fax mode. The user does not need to hang up. After the fax transmission is completed, the connection still exists and the user can continue to talk." The same is true of the Intel product and traditional Internet protocol session support to clients that access the ISP using a modem, which uses a voice line to transmit data and would encounter the exact same interruption of service while a fax is being sent or received.

Claim 16 includes a "method to support a fax over Internet protocol session, the method comprising: connecting a client to a first Internet service provider over a first connection, the client comprises a fax over Internet protocol client driver that is operable to support a fax over Internet protocol session." Again, the only embodiments disclosed by Shuster or Intel are the direct connection of a T38 device or system to the Internet, or the connection of a standard, prior art device through a T38 gateway. By connecting a client to a first Internet service provider over a first connection where the client includes a fax over Internet protocol client driver that is operable to support a fax over Internet protocol session, it is possible to avoid the problems of the prior art systems disclosed by Shuster and Intel, namely, that any existing uses of the telephone channel, such as a voice or IP session, must be suspended while a fax is being sent or received.

Claim 17 includes the "method of claim 16, wherein the first connection comprises an asymmetric digital subscriber line." Claim 21 includes the "system of claim 9 wherein the modem supports data communications over one or more of the group comprising a public switched telephone connection, a digital subscriber line connection, and an integrated services digital network connection." Using the systems disclosed in Shuster or Intel, the T38 interface functionality would be provided by the DSLAM for claim 17, or by the ISP or DSLAM for claim 21. The Examiner asserts that ADSL provides a "private connection over the Internet." This is irrelevant, even if it were correct. The teachings of Shuster and Intel would place the T38 interface functionality at the DSLAM, which would provide prior art devices with the capability

to send a fax over IP using prior art standards. Placing the T38 interface functionality at the client increases the cost of the client and requires users to purchase new equipment, but also eliminates the problems that are created by Shuster and Intel, namely, the reliance on the gateway to provide T38 compatibility in order to send a fax over IP.

All claims not expressly traversed are allowable at least for the reasons discussed above in regards to the specific limitations of each claim, because each depends from an allowable base claim, and because each adds limitations not found in the prior art. The Applicant reserves the right to traverse the rejection of those claims on appeal. Withdrawal of all rejections and allowance of all claims is respectfully requested.

CONCLUSION

In view of the foregoing remarks and for various other reasons readily apparent, Applicants submit that all of the claims now present are allowable, and withdrawal of the rejections and a Notice of Allowance are courteously solicited.

If any impediment to the allowance of the claims remains after consideration of this amendment, a telephone interview with the Examiner is hereby requested by the undersigned at (214) 969-4669 so that such issues may be resolved as expeditiously as possible.

No additional fee is believed to be required with this response. If any applicable fee or refund has been overlooked, the Commissioner is hereby authorized to charge any fee or credit any refund to the deposit account of Godwin Gruber LLP, No. 50-0530.

Respectfully Submitted,

Christopher J. Rourk
Reg. No.39,348
ATTORNEY FOR APPLICANTS

Date: August 20, 2004

GODWIN GRUBER, LLP
1201 Elm Street, Suite 1700
Dallas, TX 75270
Ph: (214) 939-8657
Fax: (214) 760-7332
Email: crourk@godwingruber.com